

REMARKS

No claims have been canceled, amended, or added in this paper. Therefore, claims 1-5, 7-15 and 17-35 are pending and under active consideration.

Applicant wishes to thank Examiner Joshua Levine and Examiner Eduardo Robert for the courtesies extended to Edward M. Kriegsman, Esq., one of Applicant's attorneys, in a telephonic interview conducted on March 8, 2012, in connection with the subject application. Prior to said telephonic interview, Mr. Kriegsman faxed a draft Response to the outstanding Office Action to Examiner Levine, and the positions set forth in said draft Response were discussed during the telephonic interview. At the conclusion of the telephonic interview, Examiners Levine and Robert agreed with Mr. Kriegsman's position that the pending claims distinguish over the outstanding rejections. Accordingly, Examiners Levine and Robert suggested that Applicant formally submit the Response, together with an RCE, and indicated that Examiner Levine would then conduct additional searching in an attempt to cure the deficiencies of the outstanding rejections. Therefore, in accordance with the suggestion of Examiners Levine and Robert, Applicant is formally submitting the arguments of the draft Response in this paper, which is accompanied by an RCE.

Claims 1-5, 7-15, 17-24 and 26-35 appear to be rejected under 35 U.S.C. 102(a) "as being anticipated by Esch (WO 2004/054471)." (The statement of the rejection makes no mention of claims 7, 12, 16, 18, 19, and 23, but the body of the rejection does refer to these claims; therefore, Applicant assumes these claims are included in the rejection.) With respect to independent claims 1 and 35, the Patent Office states the following:

Esch disclosed an artificial lens for an eye 40 (IOL, figure 4B), which is characterized in that it has two or more media (e.g. silicon and a fluid with a different index of refraction, P51) that are flexible in shape that come into direct contact with one another as lens elements, in that the media that are flexible in shape contact on at least one

interface (via flexible layer 42, figure 4B) and are disposed so that they can be displaced relative to one another, and in that the media that are flexible in shape are each formed as a liquid (fluid, P51).

Applicant respectfully traverses the subject rejection.

Claim 1, from which claims 2-5, 7-15, 17-24 and 26-34 depend, is directed at an artificial lens for an eye that is characterized in that, *inter alia*, it has two or more media that are flexible in shape that come into direct contact with one another as lens elements, wherein the media that are flexible in shape contact on at least one interface and are disposed so that they can be displaced relative to one another and wherein each of the media is formed as a liquid.

Esch, while also relating generally to an artificial lens for an eye, fails to anticipate or to render obvious the artificial lens of claim 1 for at least the reason that Esch does not teach or suggest an artificial lens for an eye that has **two or more liquid media that come into direct contact with one another**. Instead, Esch discloses an accommodating intraocular lens system in which its two or more liquid media do **not** come into **direct** contact with one another and, instead, are kept physically spaced apart from one another by a layer of material that is placed between the two media.

More specifically, Esch discloses in Figs. 4A and 4B, upon which the Patent Office is apparently relying, an intraocular lens (IOL) 40 that is made up of a substrate 41, a flexible layer 42, an anterior element 43, a flexible layer 44, and a posterior element 45. While it may be true that fluid 54 is present in substrate 41, that fluid 59 is present in anterior element 43, and that fluid 65 is present in posterior element 45, **none of these fluids come into direct contact with one another**. This is because flexible layer 42 is positioned between the structures holding fluids 54 and 59 in such a way as to act as a barrier to prevent any direct contact between fluids 54 and 59. Similarly, flexible

layer 44 is positioned between the structures holding fluids 54 and 65 in such a way as to act as a barrier to prevent any direct contact between fluids 54 and 65.

By contrast, as called for in claim 1, the two liquid media come into **direct** contact with one another. This may be seen, for example, in Figs. 2, 3, and 5 of the present application, where **first medium 12 and second medium 13 come into direct contact with one another through an opening 28 that is provided in a bearing surface 22.** In the embodiment of Fig. 2, a stabilization foil 32, which may be a perforated foil around a stabilization net with a mesh-like or similar structure, is shown placed in opening 28. In the embodiments of Figs. 3 and 5, nothing is shown placed in opening 28.

Therefore, because Esch does not teach or suggest, *inter alia*, two or more liquid media that are in direct contact with one another, Esch fails to anticipate or to render obvious claim 1.

Claim 35 differs from claim 1 in that claim 35 recites, *inter alia*, that the two or more media are each formed as a liquid or a type of gel. For reasons similar to those discussed above in connection with claim 1, claim 35 is patentable over Esch for at least the reason that Esch does not teach or suggest two or more liquid or gel media that are in direct contact with one another.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

Claim 25 stands rejected under 35 U.S.C. 103(a) “as being unpatentable over Esch (WO 2004/054471) in further view of Klopotek (USPN 6,730,123).”

Applicant respectfully traverses the subject rejection. Claim 25 depends ultimately from claim 1. Claim 1 is patentable over Esch for at least the reasons given above. Klopotek fails to cure the deficiencies of Esch with respect to claim 1. Therefore, claim 25 is patentable over the combination of Esch and Klopotek.


Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

In conclusion, it is respectfully submitted that the present application is in condition for allowance. Prompt and favorable action is earnestly solicited.

If there are any fees due in connection with the filing of this paper that are not accounted for, the Examiner is authorized to charge the fees to our Deposit Account No. 11-1755. If a fee is required for an extension of time under 37 C.F.R. 1.136 that is not accounted for already, such an extension of time is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on **3-13-12**.


Daniel S. Kriegsman